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APPLICATION NO.	FILING DATE.	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/262,656	03/04/99	MELINO	MELINO-2

THOMAS A O ROURKE
WYATT GERBER MELLER & O'ROURKE
99 PARK AVENUE
NEW YORK NY 10016

PM82/0509

EXAMINER

PUROL, D

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 05/09/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/262,656

Applicant(s)
Charles E. Melino et al.

Examiner
David M. Purol

Group Art Unit
3634



☒ Responsive to communication(s) filed on Mar 4, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-29 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-29 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12,18-26, drawn to a dust containment system, classified in class 160, subclass 368.1.
- II. Claims 13-17, drawn to a clamp, classified in class 81, subclass 300+.
- III. Claims 27-29, drawn to a gasket, classified in class 277.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claim 1 does not set forth any structure of the clamp while claim 13 sets forth specific structure of the clamp thereby evidencing that the combination as claimed does not require the particulars of the subcombination as claimed for patentability. The subcombination has separate utility such as a tool for picking up items.

2. Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if

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it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claim 1 does not recite gasket thereby evidencing that the combination as claimed does not require the particulars of the subcombination as claimed for patentability. The subcombination has separate utility such as a sealing apparatus for the garage door.

3. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as a sealing apparatus for a garage door. See MPEP § 806.05(d).


4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, wherein, the search required for each respective Group is different, restriction for examination purposes as indicated is proper.

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5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. A telephone call was made to Thomas O'Rourke in an attempt to request an oral election to the above restriction requirement, but did not result in an election being made.

7. An inspection of the instant application reveals that the informal drawings are not of sufficient quality to permit examination. Each element which has been depicted is to be associated with a reference numeral. Figure 6 is indiscernible in its entirety. Accordingly, new drawings are required in reply to this Office action.


David M. Purol
Primary Examiner
Art Unit 3634